

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7326

BILL NUMBER: HB 1003

NOTE PREPARED: Apr 9, 2013

BILL AMENDED: Apr 9, 2013

SUBJECT: School Scholarships.

FIRST AUTHOR: Rep. Behning

FIRST SPONSOR: Sen. Eckerty

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: *School Scholarship Tax Credit:* This bill provides that a taxpayer may carry forward a School Scholarship Income Tax Credit for a taxable year that begins after December 31, 2012. Starting FY 2014, it increases the fiscal year cap applied to the tax credit from \$5 M to \$10 M.

Choice Scholarship - The bill specifies eligibility standards for Choice Scholarships. It increases the Choice Scholarship cap for students enrolled in grades 1 through 8. The bill also makes various administrative changes to the Choice Scholarship Program.

The bill removes a provision that allows the Department of Education to make only a partial Choice Scholarship Grant.

The bill provides that an eligible Choice Scholarship student is eligible to receive as part of the Choice Scholarship any applicable amount that a school corporation (in which the student has legal settlement) would receive for a student as part of a Special Education Grant. It also provides that a public school is not required to make available special education and related services to an eligible Choice Scholarship student who receives special education funding as part of the Choice Scholarship. The bill provides that a school corporation may not include in its Special Education Grant count an eligible choice scholarship student who receives an amount related to special education as part of a Choice Scholarship. It requires the State Board of Education to adopt rules, including emergency rules, for the provision of special education or related services to an eligible Choice Scholarship student who receives special education funds as part of the Choice Scholarship.

The bill provides that the Choice Scholarship shall be distributed each semester during the school year.

The bill amends the definition of "eligible student" for purposes of the statutes concerning scholarship granting organizations.

Study Committee: The bill provides that the Legislative Council Shall assign certain topics to an interim study committee or a statutory study committee.

The bill makes conforming amendments.

Effective Date: Upon Passage; January 1, 2013 (retroactive); July 1, 2013.

Explanation of State Expenditures: *Choice Scholarship Eligibility:* The bill expands the pool of students who would be eligible for Choice Scholarships by adding:

1. Children with disabilities who require special education with household income under 200% of the amount needed to qualify for free or reduced priced lunch.
2. Students enrolled in nonpublic schools with household income under 150% of the amount needed to qualify for free or reduced priced lunch, if their public school of attendance is in the lowest performance category before June 30, 2013 or the lowest two categories established after June 30, 2013 for at least two years.
3. Students enrolled in kindergarten through 12th grade (instead of in 1st through 12th grade) in an Indiana public school (excluding a virtual charter school) for two semesters immediately before they receive a Choice Scholarship with household income under 150% of the amount needed to qualify for free or reduced price lunch.
4. A student or siblings of a student who have received a Choice Scholarship or school scholarship of at least \$1,000 from a scholarship granting organization with household income under 150% of the amount needed to qualify for free or reduced priced lunch

The bill also provides that a child who initially meets the income eligibility requirements for a Choice Scholarship and whose household income subsequently increases remains eligible for the scholarship, if the child's household income does not exceed 200% of the amount necessary to qualify for free or reduced price lunch.

The increase in eligible children due to these changes is indeterminable, but could be significant. Ultimately, the impact of expanding the pool of students who are eligible for Choice Scholarships would depend on the tuition support appropriation by the General Assembly. If the addition of more Choice Scholarship students causes the actual expenditures for Choice Scholarships and the school formula to public schools to exceed the appropriation, then the distribution to public schools and scholarship recipients under the appropriation would be proportionately reduced.

The Choice Scholarship could include the state special education tuition support funding the public school would have received if the student had been counted in a public school's special education count. Under current law, the public school is required to provide special education services and include the nonpublic student in their special education count. The public school would not have any educational responsibilities for the special education student if the scholarship includes special education funding. The impact is probably minor since the nonpublic special education student is probably receiving services from a public school.

Maximum Choice Scholarship Amount: The bill increases the maximum Choice Scholarship for 1st through

8th grade students from \$4,500 to \$4,600 for FY 2014 and to \$4,700 for FY 2015. For FY 2013, approximately 3,854 of the 9,135 choice scholarships were funded at the \$4,500 level. The scholarships with a dollar amount greater than the \$4,500 maximum averaged about \$5,667. For FY 2013, the \$100 increase in the maximum scholarship for 1st through 8th grade Choice Scholarship students would have cost \$385,400 with a \$200 increase costing \$770,800. The impact could grow as more students use the Choice Scholarship Program.

The maximum number of scholarships for the 2011-12 school year was 7,500, and the maximum number of scholarships for the 2012-13 school year is 15,000. There is no limit on the number of Choice Scholarships beginning in FY 2014. The following table has the number of scholarships and value of those scholarships for FY 2012 and FY 2013.

Fiscal Year	Number of Scholarships	Value of Scholarships	Average Scholarship
2012	3,911	\$ 15.6 M	\$3,988.75
2013	9,135	\$37.3 M	\$4,083.10

Choice Scholarship Approval: The time line for the Department to approve a Choice Scholarship should have minor fiscal impact on the Department.

Department of State Revenue (DOR): The DOR would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to reflect the changes relating to the School Scholarship Tax Credits proposed in this bill. The DOR's current level of resources should be sufficient to implement these changes.

Study Committee: This bill requires the following topics be assigned to an interim study committee:

1. Whether the public schools that students left upon receiving the Choice Scholarship were failing schools.
2. Whether the nonpublic schools that students attended after receiving Choice Scholarships are high performing schools.
3. How many students attending a nonpublic school under a Choice Scholarship or a scholarship from a scholarship granting organization never attended a public school.
4. How many additional students are being funded by the state, compared to the year before Choice Scholarships were first awarded.
5. What is the poverty rate among families of children receiving Choice Scholarships.
6. How many students received a Choice Scholarship for a reason other than poverty.
7. How many special education students are receiving Choice Scholarships.
8. How many category 1-3 English language learner students are receiving Choice Scholarships.
9. What is the appropriate limit for state funded scholarships for private schools.

The committee is to operate under the policies governing study committees adopted by the Legislative Council.

The impact of this provision would depend on action by the Legislative Council. A topic assigned to an existing statutory committee would likely not increase expenditures. If a new interim committee is established, expenditures would increase. The additional expenditures would be the budgeted amount of resources for the new committee by the Legislative Council. During the FY 2012 interim, the Legislative Council set the budgets for study committees at \$9,500 for committees with less than 16 members and \$16,500 for committees with

16 or more members.

Explanation of State Revenues: *School Scholarship Tax Credit:* The bill makes the following changes to the tax credit.

(1) The bill increases the fiscal year cap applied to the credit from \$5 M to \$10 M for each fiscal year starting in FY 2014. The fiscal impact of this provision could potentially begin in FY 2014, depending on the level of qualified contributions to scholarship granting organizations. While the maximum additional annual revenue loss due to this change would be \$5 M, it is unlikely to occur in the short term given that current credit levels are well below the existing \$5 M annual cap.

(2) The bill would allow tax credits for contributions to school scholarship granting organizations beginning in tax year 2013 to be carried forward for up to nine years. This change could potentially increase the long-run revenue loss from the tax credit by allowing taxpayers who could not otherwise exhaust the credit in one year to carry forward unused credit amounts.

Current law provides a nonrefundable tax credit to individuals and corporations that make contributions to a scholarship granting organization. The credit is equal to 50% of the amount of the charitable contribution, and may be taken against the Individual and Corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax. Total credits may not exceed \$5.0 M in any fiscal year, and the tax credit may not be carried back or carried forward. In tax year 2010, about \$183,000 in School Scholarship credits was claimed. However, through March 27, 2013, \$2.3 M in credits has been approved for FY 2013.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: DOR, DOE.

Local Agencies Affected: Schools

Information Sources: OFMA Income Tax Database. DOR's School Scholarship Credit Report - <http://www.in.gov/dor/4305.htm> .

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